

**STATEMENT FOR THE RECORD
OF
THE CHURCH ALLIANCE**

**FOR THE HEARING
ON
“PRIVATE EMPLOYER DEFINED BENEFIT PENSION PLANS”**

**BEFORE
THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SELECT REVENUE MEASURES**

WEDNESDAY, SEPTEMBER 17, 2014

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Chairman Tiberi, Ranking Member Neal, and members of the House Ways and Means Select Revenue Measures Subcommittee, thank you for the opportunity to submit this statement for the record on behalf of the Church Alliance.

The Church Alliance is a coalition of chief executive officers of thirty-eight (38) denominational benefit programs, covering mainline Protestant denominations, two branches of Judaism, and Catholic schools and institutions. These benefit programs, known as church plans, provide pensions and health benefits to more than one million clergy, lay workers, and their family members.

We applaud the Subcommittee's leadership on retirement security issues and its emphasis on the challenges facing employers, employees, and retirees who rely on defined benefit pension plans. We wanted to bring to your attention a set of issues facing church plans, many of which offer defined benefit pension plans. We commend Ranking Member Neal for his introduction of the "Church Plan Clarification Act," as Sec. 405 of H.R. 2117, to address these issues; similar stand-alone legislation has been introduced as S. 952 by Senators Cardin and Portman. We would like to urge enactment of this important legislation before the end of the 113th Congress.

CHURCH PLANS

Church benefit plans and programs have existed for many years; in fact, some were established as far back as the 1700s. Initially, many of these benefit programs were akin to benevolence programs in that they provided benefits to clergy in need. Over the years, however, the benefit programs expanded to more formally and systematically provide retirement and welfare benefits for clergy and church lay workers.

Church plans have developed structures and mechanisms that reflect the differing church polities (denominational organizational and governance structures) that they serve. In recognition of their unique status, most church retirement plans are exempt from the Employee Retirement Income Security Act of 1974 ("ERISA") and are instead subject to special laws and regulations that reflect the distinctive issues that these plans and churches confront. Church retirement plans are subject to stringent state and federal laws and regulations, including state fiduciary standards, state contract law, and Internal Revenue Code ("IRC" or "tax code") requirements. Church retirement plans ensure the stability of participants' investments by applying many of the same strong safeguards applied to corporate and public pension funds. Moreover, churches and synagogues have a strong lifelong relationship with employees and are motivated to provide for and serve the clergy and church lay workers who have dedicated their lives to working for religious institutions.

THE CHURCH PLAN CLARIFICATION ACT

Given the unique nature of church retirement plans, legislation and regulations oftentimes have unintended consequences when applied to them, which can result in uncertainty and/or compliance issues. The Church Plan Clarification Act contains critical corrections and clarifications to a series of issues impacting church retirement plans:

- **Controlled Group Rules.** Currently, the controlled group rules for tax-exempt employers may require certain church-affiliated employers to be included in one controlled group (i.e., treated as a single employer), even though they have little relation to one another. A modification is necessary to the controlled group rules to ensure that multiple church-affiliated entities – which may be related theologically, but have little or no relation to one another in terms of day-to-day operation – are not inappropriately treated as a single employer under the tax code.
- **Grandfathered Defined Benefit (“DB”) Plans.** IRC § 403(b) church DB plans established before 1982 are called grandfathered DB plans and were intended to be treated and continue to operate as DB plans. However, recent rules subjecting such plans to both DB and defined contribution (“DC”) annual benefit accrual limitations under IRC § 415 have resulted in clergy who are lower-paid and closest to retirement being harmed. A clarification is required to ensure that only the logically applicable DB limitations apply to these plans.
- **Automatic Enrollment.** Church employers often cross state lines. State wage withholding laws differ from state to state, presenting barriers to offering auto-enrollment into church retirement plans. Federal legislation is needed to preempt these laws so that church retirement plans can include auto-enrollment features in their retirement plans just as non-church corporate plans are allowed to do without the uncertainty arising under the laws of certain states.
- **Transfers Between 403(b) and 401(a) Plans.** Current rules do not allow transfers and mergers between an IRC § 403(b) church retirement plan and an IRC § 401(a) qualified church retirement plan. Legislation is needed to provide for such transfers and mergers, providing a better alternative to terminating or having to maintain separate legacy plans. Such legislation will also decrease complexity and administrative costs for church employers, as well as confusion for employees.
- **81-100 Trusts.** Church benefits boards are legally allowed to commingle plan and non-plan church-related assets for investment purposes to allow churches the benefit of the board’s greater resources, investment skills, and market clout. A clarification is required to ensure that a widely used investment vehicle, 81-100 (2011-1) trusts, can accept such funds.

In short, the Church Plan Clarification Act is simple and straightforward clarifications and corrections legislation, that is non-controversial, has bipartisan support, and has not attracted any opposition. Moreover, although the policy issues addressed by the Church Plan Clarification Act may seem relatively “small,” they are extremely critical to the functioning and operation of church plans. The issues addressed by the Church Plan Clarification Act are becoming increasingly urgent. The longer this legislation is pending, the greater the burden is to church plan participants, most of whom are of modest means and have devoted their lives, and sometimes the lives of their families, to serving religious institutions.

CONCLUSION

The Church Alliance strongly urges that the Church Plan Clarification Act be enacted as expeditiously as possible before the end of the year. It is vital that individuals who dedicate their lives to religious service are not inappropriately disadvantaged.

The Church Alliance greatly appreciates the opportunity to submit these comments. We are pleased to serve as a resource to the Congress, the Committee, and the Subcommittee on these and related matters. We look forward to our continued work together on these important issues. Thank you.